

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1.
 - a. Whether there should be additional reimbursement for date of service 05/25/01.
 - b. The request was received on 05/17/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Position Statement located on Table of Disputed Services
 - b. UB-92 forms
 - c. EOBs
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to a Request for Dispute Resolution
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. The carrier's response was received on 05/17/02. No carrier sign sheet was noted in the dispute packet. All information in the dispute packet will be reviewed.

III. PARTIES' POSITIONS

1. Requestor: Requestor: Table of Disputed Services
"Carrier denied per code 'M' and did not supply documentation of 'methodology' per 133.304 or pay at a 'fair and reasonable' rate. Carrier is also not reimbursing facility consistently as required by the Texas Administrative Code. Carrier's methodology is payment at least at 80% per its own EOB's [sic]. However, reimbursement was not at 80%."
2. Respondent: Letter dated 05/03/02
"...It is our position that in all of these disputed charges, we either paid fair and reasonable or the charge was global to some other charge and/or documentation was not provided."

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 05/25/01.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the provider's TWCC-60, the amount billed is \$30,618.51; the amount paid is \$7,078.18; the amount in dispute is \$23,540.33.
5. The Carrier's EOBs denied any additional reimbursement by exception codes, "M – REDUCED TO FAIR AND REASONABLE" and "G – UNBUNDLING". Both the Requestor and the Respondent have indicated that the disputed issue is a fair and reasonable denial.
6. The amount in dispute is \$3,967.47 for services rendered on the date of service in dispute above.

V. RATIONALE

Medical Review Division's rationale:

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a) (4) states ASCs, "shall be reimbursed at a fair and reasonable rate..."

Section 413.011 (d) of the Texas Labor Code states, "Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."

The response from the carrier shall include, per Rule 133.307 (j) (1) (F), ".... if the dispute involves health care for which the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 413.011 and §133.1 and 134.1 of this title;"

The carrier, according to their position statement, asserts that they paid a fair and reasonable reimbursement. However, the carrier failed to support the exception denials with a methodology per Rule 133.304 (i) and documentation in accordance with Rule 133.307 (j) (1) (F).

As the requestor, the health care provider has the burden to provide documentation that "...discusses, demonstrates, and justifies that the payment being sought is a fair and reasonable rate of reimbursement...." pursuant to TWCC Rule 133.307 (g) (3) (D).

The provider has submitted no documentation to support that their billing is fair and reasonable. Because there is no current fee guideline for ASC's, the Medical Review Division has to determine, based on the parties' submission of information, who has provided the more persuasive evidence. Neither party provided evidence as required by the referenced Rules. The requestor has the burden to prove their fees are fair and reasonable. The requestor failed to discuss, demonstrate and justify that the payment billed represents a fair and reasonable charge as required by TWCC Rule 133.307 (g) (3) (D). Therefore, **no additional** reimbursement is recommended.

The above Findings and Decision are hereby issued this 24th day of February 2003.

Donna M. Myers
Medical Dispute Resolution Officer
Medical Review Division

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